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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Eighteenth session

SUMMARY RECORD OF THE 14th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 6 May 1998, at 10 a.m.

Chairperson: Mr. ALSTON

later: Mr. CEAUSU

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Second periodic report of the Netherlands (E/1990/6/Add.11 to 13; HRI/CORE/1/Add.66 to 68; E/C.12/Q/NET.1; E/C.12/A/NET.1; written replies of the Netherlands Government (document without a symbol distributed at the meeting, in English only)) (continued)

1. At the invitation of the Chairperson, the Netherlands delegation took places at the Committee table.

2. The CHAIRPERSON invited the members of the Committee to resume their consideration of the implementation of article 9 of the Covenant in the Netherlands.

3. Mr. WIMER drew attention to a number of counterproductive aspects of the recent reform of the social security system in the Netherlands whose impact was felt primarily by the most vulnerable sectors of society. For example, the revised criteria for the allocation of unemployment benefits penalized young people without experience and the amendments entailed a reduction in pensions paid to widows under 40 years of age.

4. Mrs. JIMENEZ BUTRAGUEÑO, endorsing Mr. Wimer's remarks, asked for details of the regulations governing the prevention of invalidity in enterprises and the scale of benefits payable under the health and invalidity insurance scheme.

5. Mr. RIEDEL requested particulars of the recent amendments to the legislation on invalidity pensions and asked what steps the Government proposed to take in order to cushion the considerable adverse impact that the privatization of the health and invalidity insurance system could have on workers who were in poor health.

6. Mr. ANTANOVICH inquired about the scale of income disparity in Netherlands society and wished to know whether the Government intended to take any action to narrow the gap.

7. Mr. POTMAN (Netherlands) said that the delegation would not be able to answer all the questions until the next meeting since the relevant information had not been received. However, he pointed out that the highly elaborate Netherlands social security system had been on the verge of breakdown because it had become too unwieldy and costly. Trimming had been necessary in order to keep the system in place. The protection of the most vulnerable sectors of society nevertheless continued to be one of the Government's prime concerns.

8. Mr. RIEDEL said that, when considering the initial report of the Netherlands, the Committee had requested that subsequent reports should specify areas in which the Government was encountering difficulties. As no action seemed to have been taken on that recommendation, he asked the delegation to rectify the omission.

9. The CHAIRPERSON invited the Netherlands delegation to introduce briefly its written replies on the implementation of article 10 of the Covenant.

10. Mr. POTMAN (Netherlands), replying to Mr. Riedel, said that he fully understood his concern, but it went somewhat against the grain for a civil servant to criticize the policy of his employer, the State.

11. With regard to the rights recognized under article 10 of the Covenant, he said that the Netherlands Government was endeavouring to ensure equal treatment for different living arrangements, including the traditional family. The State's role was to establish the conditions in which the family unit could fulfil its functions, chiefly with regard to child education, and it had introduced a complex family support and counselling scheme for that purpose.

12. There was no specialized governmental institution to deal with domestic violence, but care was provided through a three-level system. Victims could obtain immediate assistance from primary care services, which were provided, inter alia, by the police, general practitioners and crisis centres. If necessary, the services referred patients to specialists or out-patient establishments. Tertiary care covered all types of in-patient medical or psychiatric treatment.

13. The first step in assisting young victims of sexual abuse was to identify the problem. The Society for the Prevention of Child Abuse and telephone help lines provided valuable assistance in that regard. Cases of sexual abuse could be reported to the police and to various specialized bodies. Child follow-up care was then provided, for example, by the Youth Counselling Centre.

14. The findings of a preliminary investigation of domestic violence had been published in October 1997. The picture they gave of Netherlands society might seem disturbing, but it should be noted that a very broad definition of domestic violence had been used.

15. Homosexual couples could obtain official recognition since January 1998 through a new institution known as registered partnership, which was also applicable to heterosexual couples who did not wish to marry. Registered partners had the same rights as married couples except in matters relating to parental authority.

16. Mr. Ceausu took the Chair.

17. Mr. SADI said that he failed to see why the Netherlands Government had taken the step of introducing a piece of legislation that he viewed as questionable, since couples living in a registered partnership were treated as having the same rights and duties as married couples, and that ran counter to the provisions of the Covenant on the protection of the family.

18. He also wondered how the Government reconciled the legalization of prostitution with the provisions of the Covenant. In particular, having once heard a Netherlands official state that prostitution should be legalized as falling within the scope of the individual's right of self-determination, he requested the delegation to comment on a line of reasoning that was odd to say the least.

19. Mr. ANTANOVICH asked the delegation for information on the cost effectiveness of such liberal policies vis-à-vis the objective of article 10 of the Covenant, namely, protection of the family, mothers and children. He also requested information on the trend in the divorce rate.

20. Mrs. BONOAN-DANDAN said she was alarmed at the findings of the survey on domestic violence as reflected in the written replies of the Netherlands Government. Was it not disturbing to learn that 45 per cent of the population of the Netherlands had been confronted with domestic violence at some point and that 45 per cent of the victims of sexual abuse were minors? Under those circumstances, the conclusions of the survey were disappointing, consisting of a few general recommendations that totally disregarded the causes of the problem. It would have been useful to know what role was played by prostitution, drugs or alcoholism in the whole scenario of violence. She also wondered about the scale of child prostitution and the contribution of pornography to sexual violence against women and children.

21. Mr. ADEKUOYE, referring to the problem of school failure and the marginalization of young people, especially among ethnic minorities, said that he would like more information about the results of government action in that area.

22. Mr. GRISSA asked whether homosexual couples had the right to adopt children and, if so, whether steps were taken to protect the children against possible sexual abuse.

23. Mr. AHMED noted that, according to the Netherlands section of the International Commission of Jurists, 240,000 households, or almost 1 million persons, were living on an income below the social minimum and some 250,000 children belonging to poor families participated very rarely in recreational and cultural activities. He was surprised that a country as wealthy as the Netherlands was unable to solve those problems.

24. Mr. POTMAN (Netherlands) said he thought it inappropriate to embark on a discussion of morality or whether it was demeaning for a prostitute to display herself in a window. The non-illegality of voluntary prostitution was not incompatible either with the provisions of the Constitution guaranteeing individual rights or with his country's obligations under the international instruments to which it was a party. On the other hand, procuring, forced prostitution and trafficking in human beings were offences. It was estimated that between 2,500 and 3,500 persons prostituted themselves in the Netherlands against their will or in unacceptable conditions. The Government took very stringent action against such practices.

25. With regard to homosexuality, as all forms of discrimination based on sexual orientation were prohibited by the international instruments to which the Netherlands was a party, the rights of homosexuals were well developed. Homosexual couples could not, for the time being, adopt children.

26. Since the study of domestic violence covered a sample of only 1,000 people, it would be unwise, to say the least, to extrapolate from such a limited sample. It was really only a preliminary study designed to bring to light certain trends and provide a clearer picture of the problems involved. It would obviously need to be supplemented by more in-depth studies.

27. His delegation would ask the Ministry of Justice to provide it with recent statistics on child prostitution.

28. Whether or not pornography was one of the causes of domestic violence, the Government applied European directives that required States to protect young people against pornography, especially in the media. The fact that adults were free to visit places where they could obtain pornographic material was another matter.

29. Existing activities and programmes designed to integrate children belonging to ethnic minorities into Netherlands society were described in paragraphs 340 to 343 of document E/1990/6/Add.11. It was still too soon to assess their effectiveness, but the results would be communicated to the Committee as soon as they were known.

30. Only women were entitled to maternity leave proper, but both parents were entitled to parental leave to look after the child.

31. There seemed to be no basis for the allegation that 250,000 children were unable to exercise the rights provided for in the Covenant. The Netherlands delegation would subsequently describe the steps taken by the Government to alleviate poverty and improve the situation of children from low-income families.

32. Mr. SADI and Mr. ADEKUOYE asked whether the method used to calculate income tax was the same for all partnerships - married couples, unmarried couples and homosexual couples.

33. Mr. POTMAN (Netherlands) said that, as a rule, a person paid taxes commensurate with his or her income, whether that person was married or not. However, couples only one of whom worked benefited from a tax break.

34. Mr. ANTANOVICH said that he understood the extremely cautious approach of the Netherlands delegation to matters such as prostitution and homosexuality, but he still wished to know whether the Government's liberal policy in that area had in any way influenced developments in the family as a social institution.

35. The CHAIRPERSON noted that the two human rights Covenants contained provisions stating that certain restrictions of rights were permissible if they were necessary to protect public order or morals or the rights of others.

36. Mr. POTMAN (Netherlands) said that one could not tell from available data whether the fact that prostitution and pornography were not illegal influenced the situation of the family in the Netherlands. At all events, the State was doing its utmost to ensure that parents were able to raise their children in appropriate conditions and intervened whenever there was a threat to child health or children's rights.

37. Mr. TEXIER said that the Committee's mandate was not to discuss moral issues, but to ensure that States parties implemented the provisions of the Covenant.

38. The CHAIRPERSON invited the Netherlands delegation to reply to questions 11 and 12 of the list of issues relating to article 11 of the Covenant.

39. Mr. POTMAN (Netherlands) said that enforced evictions were very rare in the Netherlands and the municipalities were required by law to find alternative shelter for evicted persons.

40. Mr. VAN EYK (Netherlands) said that the decline in State housing subsidies was due to developments in the property market. The bulk of current demand was for up-market or luxury housing, which accounted for at least 70 per cent of housing starts. As housing of that kind became available, low-cost housing currently occupied by well-off families would be vacated in favour of disadvantaged households.

41. Mr. PILLAY said that enforced evictions seemed to be a more common phenomenon than admitted by the delegation, since, according to the National Federation of Housing Management Agencies, there had been 6,000 enforced evictions in 1995, largely for non-payment of arrears of rent, and alternative shelter had not always been found immediately for the persons concerned. Moreover, rents seemed to be too high, especially for vulnerable groups, and many people were apparently unaware of the rights they enjoyed pursuant to the amendment to the Housing Allocation Act. Many well-off households also reportedly continued to occupy social housing to which they were not entitled, forcing poor families to live in dwellings whose rent was beyond their means.

42. He inquired about steps by the Government to counter reported cases of discrimination based on race, marital status and sexual orientation in the housing sector. Lastly, according to the Netherlands branch of the International Commission of Jurists, the living conditions of asylum-seekers awaiting residence permits were very bad. What was the Government doing to improve them?

43. Mr. RIEDEL asked whether the State was required to provide accommodation for rejected asylum-seekers who refused to leave and whether there was supervisory machinery in that area.

44. Mr. TEXIER inquired about the scale of social exclusion in the Netherlands. Were there specific policies to deal with the problem, which violated both the economic, social and cultural rights and the civil and political rights of all excluded persons: the homeless, the long-term unemployed and others?

45. Mr. CEVILLE asked for particulars of the legislative changes with regard to grants for housing conversion measures for disabled people mentioned in paragraph 205 of the report and for details of the assistance granted to disabled persons and the proportion of rent that such assistance represented.

46. Mr. POTMAN (Netherlands), replying to Mr. Riedel, said that the Government was required to house rejected asylum-seekers until their departure from the country.

47. Mr. VAN EYK (Netherlands), replying to Mr. Pillay, said that, although 6,000 evictions had occurred for non-payment of rent, alternative

housing had always been found for the persons concerned. Sufficient social housing was available and the State was required to assist low-income families in finding accommodation. Subsidies for that purpose had been substantially increased in the past two or three years and the conditions of entitlement had been broadened to make greater provision for large families and elderly people. The amendment to the Civil Code according to which, on the death of a spouse, the survivor continued to enjoy the same rights meant in terms of housing that the survivor enjoyed security of occupancy. That provision also applied to homosexual couples.

48. In reply to Mr. Texier, he said that action to combat social exclusion called for a combination of initiatives involving not only housing, but also other areas such as education, job creation and better living conditions. Accordingly, several ministries in the Netherlands had joined forces in tackling the problem, the scale of which was difficult to assess. However, excluded persons certainly represented less than 40 per cent of those entitled to a rent subsidy. The number of homeless persons had recently been estimated at 30,000. The social services of the municipalities and housing management agencies were endeavouring to improve the situation through various social initiatives and the provision of medical or psychiatric care.

49. Mr. GRISSA said that he wished to know to which spouse a dwelling was adjudged in the event of divorce.

50. Mr. VAN EYK (Netherlands) said that the decision was taken by common consent of the spouses, if necessary with the assistance of a lawyer.

51. The CHAIRPERSON invited the members of the Committee to consider the implementation of article 12 of the Covenant in the Netherlands.

52. Ms. GORIS (Netherlands) said that the current Government's public health policy was designed to achieve three basic objectives: an increase in life expectancy; the prevention of avoidable deaths; and the enhancement of the quality of life of people suffering from a chronic disease or a handicap. On coming to power three years previously, the governing coalition had agreed to impose a 1.3 per cent ceiling on the annual growth rate in State health spending; despite difficulties in staying below the ceiling and the fact that there had been much debate in Parliament and society at large, the principle was now widely accepted in the Netherlands. The country's health-care system was functionally decentralized. The relationship between individual responsibility, on the one hand, and collective responsibility and solidarity, on the other, was being reviewed, particularly in terms of social security and health care. The idea of enhanced personal responsibility was being promoted. Limited financial responsibility for beneficiaries had been introduced in that context. To increase efficiency, the Government had also launched an incentive scheme for insurance companies and health-care providers. Responsibility for implementing the Government's policy to improve the health situation, one of its basic obligations under the Constitution and international treaties, was delegated, where appropriate, to providers and users of health-care facilities, insurance companies, local authorities and intermediary organizations. However, the Government considered that it was directly responsible for carrying out the following tasks: guaranteeing access to essential facilities for all the country's inhabitants; controlling health expenditure; regulating funding for care and treatment; and supervising

the quality of health-care establishments. The Government viewed its role as one of enabling the parties concerned to carry out their responsibilities.

53. The main aim of drugs policy in the Netherlands was to protect the health of users, the people around them and society as a whole. The policy, which had been pursued for some 20 years, gave priority to the protection of vulnerable groups, especially young people, while restricting both demand - through prevention and care - and supply - through action against organized crime. A third policy aim was to tackle drug-related nuisance factors and to maintain public order.

54. The Opium Act drew a distinction between hard drugs such as heroin, cocaine and Ecstasy, which were unacceptably hazardous to health, and soft drugs such as hashish, which were considerably less hazardous. While the possession of a small quantity of drugs for private use was only a minor offence, the import and export of drugs were the most serious offences under the Opium Act. The consumption of drugs as such was not an offence on the principle that drug users should not be placed out of reach of the institutions responsible for prevention and care through criminalization. The sale of small quantities of soft drugs in "coffee shops" was therefore technically an offence, but prosecution proceedings were instituted only if the operator or owner of the shop failed to comply with certain rules: five grams per person was the maximum permissible amount for any one transaction; the sale of hard drugs was prohibited; drugs were not to be advertised; the shop was not to become a public nuisance; drugs were not to be sold to persons under 18 years of age nor were such persons to be admitted to the premises. Non-compliance with the rules could entail the closure of the establishment by the public authorities.

55. Protection of the health of drug users was a major priority and a wide range of facilities were available. The Netherlands spent over 300 million guilders each year on facilities for addicts. Prevention also played an important role in drugs policy. Schools in particular were targeted in efforts to discourage drug use by young people, while media campaigns were directed at the broader public. For instance, a campaign to counter the use of cannabis had been launched in late 1996 and a similar campaign against Ecstasy was planned.

56. Drug-related tourism was a serious nuisance and efforts to counter the problem were being given high priority. Tourists coming to the Netherlands to use drugs could be expelled and measures to reduce the number of coffee shops and to limit the quantity of cannabis that could be sold were designed to discourage drug tourism. A team from the International Narcotics Control Board that had visited the Netherlands in March 1998 had given a very favourable assessment of the Netherlands anti-drug-abuse policy.

57. The CHAIRPERSON, replying to a request by the Netherlands delegation, invited the members of the Committee to ask all the questions they wished to raise concerning the report on Aruba for transmission to the Aruba authorities.

58. Mrs. BONOAN-DANDAN asked from what age a dispensation could be obtained for the marriage of a child who was under the statutory minimum age and what was the lowest age ever recorded for such a marriage. She noted with concern

that, under the Civil Code of Aruba, legitimate or illegitimate children recognized by the father bore his name, whereas illegitimate children who were not recognized by the father bore the name of the mother. She wished to know whether there were many other discriminatory provisions of that kind against illegitimate children and whether the Government contemplated reviewing the legislation in order to eliminate all traces of discrimination against them and against either sex.

59. The CHAIRPERSON said that the Committee had agreed to use the term "children born out of wedlock" instead of "illegitimate children".

60. Mr. ANTANOVICH asked what proportion of the population earned the minimum wage, what the social characteristics of that population group were, whether certain employees earned less than the minimum wage and, if so, whether they received an allowance designed to bring their income up to the level of the minimum wage.

61. Mrs. JIMENEZ BUTRAGUEÑO asked whether the civil status provisions actually discriminated against children born out of wedlock.

62. Mr. WIMER said that he wished to know whether the drug legislation, including implementing regulations, in force in the European part of the Kingdom of the Netherlands was also applicable in Aruba or whether there were differences. As noted by the Netherlands section of the International Commission of Jurists, the Government's replies did not explain clearly why compulsory education had not yet been introduced in Aruba, even at the primary level.

63. Mr. AHMED asked whether the labour legislation in force in the European part of the Kingdom was applicable to Aruba, particularly the provisions concerning weekly or monthly working hours and overtime. He also wished to know whether the unemployment rate was the same in Aruba and the European part of the Kingdom, whether there were foreign minorities in Aruba and, if so, what the unemployment rate was in each case. Was the same social security system, particularly health and old-age insurance, applicable in Aruba? In the light of the principle of self-determination, had the population of Aruba been given the opportunity to decide in a referendum whether it wished to be independent or to remain within the Kingdom of the Netherlands?

64. Mr. SADI asked whether there had been a campaign in Aruba to inform people of their rights under the Covenant. How well known were they in Aruba? If nothing had been done, some form of action should be taken to ensure that the principles developed by the Committee influenced Aruba's legislation in the same way as those relating to the Covenant on Civil and Political Rights and the case law of the European Court of Human Rights. He further asked whether the inhabitants of Aruba had the right to settle in the Netherlands and what provisions were in force in that regard.

65. Mr. MARCHAN asked whether the Opium Act in force in the European part of the Kingdom was also applicable in Aruba.

66. Mr. RIEDEL inquired about the current status of the draft ordinance which was designed to make primary education compulsory in Aruba and was mentioned in paragraph 171 of the report prepared by Aruba in 1996 and

asked whether steps had been taken to remedy the under-representation of girls in secondary education, admitted in paragraph 158 of the same report.

67. The CHAIRPERSON said he agreed with Mr. Riedel that the authorities in Aruba should explain the delay in introducing compulsory education, at least at the primary level.

68. Mr. CEVILLE asked whether forced expulsions occurred in Aruba and what importance the Government attached to the issue.

69. The CHAIRPERSON invited the members of the Committee to resume their consideration of the report on the European part of the Kingdom of the Netherlands and to ask questions about article 12.

70. Mr. AHMED said that he wished to know whether the new Netherlands law on foreigners had entered into force and, if so, what arrangements existed for giving foreigners who had applied for the regularization of their status and were awaiting a final decision access to health care in an emergency, given that article 8 (b) of the new law denied immigrants whose papers were not in order access to the community-funded health-care system.

71. Mrs. JIMENEZ BUTRAGUEÑO requested details of the impact of the new social security and health-care law. In particular, she wished to know whether low-income individuals could be exempted from payment and obtain services free of charge, if necessary, both during the transition period and afterwards, and whether the Government had taken measures to prevent private companies from refusing to insure persons whose general state of health they considered unsatisfactory.

72. She wished to know whether the Government had taken steps to remedy the shortage of general practitioners referred to in the report and asked what were targets 4, 6 and 30 mentioned in paragraph 269 relating to health coverage for the elderly. It would also be interesting to know whether there were enough geriatricians. If there was a shortage of either general practitioners or geriatricians, a recycling effort patterned on those undertaken in other countries could be considered.

73. With regard to the "prevention" component of health planning, she asked for details of action to prevent disease in general and measures on behalf of the elderly in particular.

The meeting rose at 1.05 p.m.